

lately occupied by the Uncompahgre and White River Ute Indians," approved July 28, 1882: *Provided*, That before a patent shall issue for any of the lands aforesaid under the terms of the said sections the State of Colorado shall pay into the Treasury of the United States the sum of \$1.25 per acre for the lands so patented, and the money so paid shall be subject to the provisions of section 3 of the Act of June 15, 1880, entitled "An Act to accept and ratify the agreements submitted by the confederated bands of Ute Indians in Colorado for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriation for carrying out same."

No lands shall be included in any tract to be segregated under the provisions of this section on which the United States Government has valuable improvements, or which have been reserved for any Indian schools or farm purposes. (Feb. 24, 1909, ch. 178, §§1, 2, 35 Stat. 644, 645.)

#### REFERENCES IN TEXT

Section 643 of this title, referred to in text, was repealed by Pub. L. 94-579, title VII, §704(a), Oct. 21, 1976, 90 Stat. 2792.

Act approved July 28, 1882, referred to in text, is act July 28, 1882, ch. 357, 22 Stat. 178, which is not classified to the Code.

Section 3 of the Act of June 15, 1880, referred to in text, is section 3 of act June 15, 1880, ch. 223, 21 Stat. 199, which is not classified to the Code.

#### § 648. Omitted

#### CODIFICATION

Section, acts Feb. 26, 1917, ch. 124, 39 Stat. 942; Mar. 3, 1919, ch. 114, 40 Stat. 1322; June 5, 1920, ch. 249, 41 Stat. 987, provided for extension of time of segregation and reclamation in Oregon segregation lists for period of not exceeding ten years and not beyond January 12, 1929.

### CHAPTER 15—APPROPRIATION OF WATERS; RESERVOIR SITES

Sec.	
661.	Appropriation of waters on public lands; rights of way for canals and ditches.
662.	Reservation of reservoir sites generally.
663.	Restriction of sites to inclusion of necessary lands.
664.	Rights of way over reservoir sites generally.
665.	Rights of way over reservoir sites for wagon road, railroad, or other highway.
666.	Suits for adjudication of water rights.
	(a) Joinder of United States as defendant; costs.
	(b) Service of summons.
	(c) Joinder in suits involving use of interstate streams by State.

#### § 661. Appropriation of waters on public lands; rights of way for canals and ditches

Whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes herein specified is acknowledged and con-

firmed; but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

All patents granted, or preemption or homesteads allowed, shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights, as may have been acquired under or recognized by this section.

(R.S. §§2339, 2340.)

#### AMENDMENT OF SECTION

*Pub. L. 94-579, title VII, §706(a), Oct. 21, 1976, 90 Stat. 2793, provided that effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System this section is amended to read as follows:*

*"Whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same.*

*"All patents granted, or preemption or homesteads allowed, shall be subject to any vested and accrued water rights as may have been acquired under or recognized by this section."*

#### CODIFICATION

R.S. §2339 derived from act July 26, 1866, ch. 262, §9, 14 Stat. 253.

R.S. §2340 derived from act July 9, 1870, ch. 235, §17, 16 Stat. 218.

This section is also classified to sections 51 and 52 of Title 30, Mineral Lands and Mining.

#### SAVINGS PROVISION

Amendment by Pub. L. 94-579, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 48; title 30 section 102.

#### § 662. Reservation of reservoir sites generally

Sites for reservoirs and other hydraulic works necessary for the storage and utilization of water for irrigation and the prevention of floods and overflows, located or selected prior to August 30, 1890, shall remain segregated and reserved from entry, or settlement, until otherwise provided by law, and reservoir sites thereafter located or selected on public lands shall in like manner be reserved from the date of the location or selection thereof.

(Oct. 2, 1888, ch. 1069, 25 Stat. 526, 527; Aug. 30, 1890, ch. 837, §1, 26 Stat. 391; Oct. 21, 1976, Pub. L. 94-579, title VII, §704(a), 90 Stat. 2792.)

## CODIFICATION

Section is based on provisions contained in acts Oct. 2, 1888, and Aug. 30, 1890, affected by act Oct. 21, 1976.

## AMENDMENTS

1976—Pub. L. 94-579 struck out provision authorizing the President, in his discretion, to open by proclamation any portion or all of the lands reserved by this section to settlement under the homestead laws.

## EFFECTIVE DATE OF 1976 AMENDMENT

Section 704(a) of Pub. L. 94-579 provided that the amendment made by that section is effective on and after Oct. 21, 1976.

## SAVINGS PROVISION

Amendment by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

### § 663. Restriction of sites to inclusion of necessary lands

Reservoir sites located or selected and to be located and selected shall be restricted to and shall contain only so much land as is actually necessary for the construction and maintenance of reservoirs; excluding so far as practicable lands occupied by actual settlers at the date of the location of said reservoirs.

(Mar. 3, 1891, ch. 561, § 17, 26 Stat. 1101.)

### § 664. Rights of way over reservoir sites generally

All reservoir sites reserved or to be reserved shall be open to use and occupation under sections 946 to 949<sup>1</sup> of this title, and any State is authorized to improve and occupy such reservoir sites to the same extent as an individual or private corporation, under such rules and regulations as the Secretary of the Interior may prescribe: *Provided*, That the charges for water coming in whole or part from reservoir sites used or occupied under the provisions of this section shall always be subject to the control and regulation of the respective States and Territories in which such reservoirs are in whole or part situate.

(Feb. 26, 1897, ch. 335, 29 Stat. 599.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

## REFERENCES IN TEXT

Sections 946 to 949 of this title, referred to in text, were repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

## SAVINGS PROVISION

Repeal by Pub. L. 94-579, insofar as applicable to the issuance of rights-of-way, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

<sup>1</sup> See References in Text note below.

### § 665. Rights of way over reservoir sites for wagon road, railroad, or other highway

In the form provided by existing law, the Secretary of the Interior may file and approve surveys and plats of any right of way for a wagon road, railroad, or other highway over and across any reservoir site when in his judgment the public interests will not be injuriously affected thereby.

(Mar. 3, 1899, ch. 427, § 1, 30 Stat. 1233.)

## REPEAL OF SECTION

*Section repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, under, and through the public lands and lands in the National Forest Systems.*

## SAVINGS PROVISION

Repeal by Pub. L. 94-579 insofar as applicable to the issuance of rights-of-way not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

### § 666. Suits for adjudication of water rights

#### (a) Joinder of United States as defendant; costs

Consent is given to join the United States as a defendant in any suit (1) for the adjudication of rights to the use of water of a river system or other source, or (2) for the administration of such rights, where it appears that the United States is the owner of or is in the process of acquiring water rights by appropriation under State law, by purchase, by exchange, or otherwise, and the United States is a necessary party to such suit. The United States, when a party to any such suit, shall (1) be deemed to have waived any right to plead that the State laws are inapplicable or that the United States is not amenable thereto by reason of its sovereignty, and (2) shall be subject to the judgments, orders, and decrees of the court having jurisdiction, and may obtain review thereof, in the same manner and to the same extent as a private individual under like circumstances: *Provided*, That no judgment for costs shall be entered against the United States in any such suit.

#### (b) Service of summons

Summons or other process in any such suit shall be served upon the Attorney General or his designated representative.

#### (c) Joinder in suits involving use of interstate streams by State

Nothing in this section shall be construed as authorizing the joinder of the United States in any suit or controversy in the Supreme Court of the United States involving the right of States to the use of the water of any interstate stream.

(July 10, 1952, ch. 651, title II, § 208(a)-(c), 66 Stat. 560.)

## CODIFICATION

Section is comprised of subsections (a) to (c) of section 208 of act July 10, 1952. Subsection (d) of section 208 is omitted as it referred to the limitation on the use of any appropriation in act July 10, 1952 to prepare or prosecute the suit in the U.S. District Court for the

Southern Division of California, by the *United States v. Fallbrook Public Utility Corporation*.

#### FEDERAL RULES OF CIVIL PROCEDURE

Service of summons upon the United States, see Rule 4, Title 28, Appendix, Judiciary and Judicial Procedure.

#### CROSS REFERENCES

Costs against the United States, see section 2412 of Title 28, Judiciary and Judicial Procedure.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 sections 410aaa-76, 460ccc-8, 460ddd, 460iii-5; title 28 section 2409a.

### CHAPTER 16—SALE AND DISPOSAL OF PUBLIC LANDS

Sec.

671 to 687b-5. Repealed.

687c. Alaskan land leases for fur farming; citizenship; acreage limitation; period; terms and conditions; laws applicable to mineral resources; reservations.

687c-1. Execution of provisions of section 687c; authority of Secretary of the Interior.

688 to 700. Repealed.

#### § 671. Repealed. Pub. L. 94-579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section, act Mar. 3, 1891, ch. 561, § 9, 26 Stat. 1099, prohibited sale of public lands except under certain conditions.

#### EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94-579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

#### SAVINGS PROVISION

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### § 672. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029

Section, R.S. § 2353, required public lands, offered at public sale, to be offered in half quarter sections.

#### §§ 673 to 676. Repealed. Pub. L. 94-579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section 673, R.S. § 2354, authorized private sales of all public lands in entire, half, etc., sections.

Section 674, R.S. § 2355; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, required a memorandum in connection with application for purchase of public land at private sale.

Section 675, act May 18, 1898, ch. 344, § 2, 30 Stat. 418, set forth requirements for private sale of public lands in Missouri.

Section 676, R.S. § 2365; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, authorized sale of public land to highest bidder at the private sale of land.

#### EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94-579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

#### SAVINGS PROVISION

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### § 677. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029

Section, R.S. § 2356, related to credit on sales and payment of price.

#### §§ 678 to 682. Repealed. Pub. L. 94-579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section 678, R.S. § 2357, related to acreage price for public lands offered for sale.

Section 679, act June 15, 1880, ch. 227, § 3, 21 Stat. 238, related to acreage price for alternate sections of railroad lands offered for sale.

Section 680, act June 15, 1880, ch. 227, § 4, 21 Stat. 238, excepted former section 679 of this title from applicability to mineral lands of the United States.

Section 681, act Mar. 2, 1889, ch. 381, § 4, 25 Stat. 854, related to price of forfeited railroad lands and adjacent lands.

Section 682, act Mar. 1, 1907, ch. 2286, 34 Stat. 1052, authorized sale of public lands for cemetery purposes and set forth the price for such acreage.

#### EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94-579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

#### SAVINGS PROVISION

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### §§ 682a to 682e. Repealed. Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section 682a, acts June 1, 1938, ch. 317, § 1, 52 Stat. 609; July 14, 1945, ch. 298, 59 Stat. 467; June 8, 1954, ch. 270, 68 Stat. 239, related to sale or lease of small tracts for residence, recreation, business, or community site purposes.

Section 682b, act June 1, 1938, ch. 317, § 2, as added June 8, 1954, ch. 270, 68 Stat. 239, related to minimum selling price and reservation of mineral rights.

Section 682c, act June 1, 1938, ch. 317, § 3, as added June 8, 1954, ch. 270, 68 Stat. 239, related to qualifications of lessees and purchasers.

Section 682d, act June 1, 1938, ch. 317, § 4, as added June 8, 1954, ch. 270, 68 Stat. 240, related to sales or leases to employees of Department of the Interior stationed in Alaska.

Section 682e, act June 1, 1938, ch. 317, § 5, as added June 8, 1954, ch. 270, 68 Stat. 240, related to application of sections 682a to 682e of this title to certain revested grant lands in Oregon and conditions on lease of such lands.

#### EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94-579 provided that the repeal made by that section is effective on and after Oct. 21, 1976, except such effective date to be on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976, insofar as homestead laws apply to public lands in Alaska.

#### SAVINGS PROVISION

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

#### §§ 683 to 687. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029

Section 683, R.S. § 2364, related to minimum price for sale of public lands.

Section 684, R.S. § 2358, related to authorization of President to cause public lands to be offered for sale.